

REMARKS

In view of the above amendments and following remarks, reconsideration and further examination are requested.

The specification and abstract have been reviewed and revised to make editorial changes thereto and generally improve the form thereof, and a substitute specification and abstract are provided. No new matter has been added by the substitute specification and abstract. Also, enclosed is a "marked-up" copy of the original specification and abstract to show changes that have been incorporated into the substitute specification and abstract. The attached pages are captioned "Version with Markings to Show Changes Made."

A proposed drawing amendment in red, along with a formal drawing incorporating this amendment, are provided for Figure 1.

In section 2 on page 2 of the Office Action, the Examiner rejected claim 7 under 35 U.S.C. 112, first paragraph, and in section 4 on page 2 of the Office Action, the Examiner rejected claim 7 under 35 U.S.C. 112, second paragraph. Both of these rejections have the same basis, namely that it is not seen how the plane of intersection of the protrusions can be perpendicular to the circumference of the side wall since the side wall is continuously tapered. This point is well taken, and accordingly, no reference of the plane relative to the outer circumference of the side wall of the container body is recited in the claims.

The instant invention pertains to a packaging container that comprises a container body having an inverted cone shape, at least one protrusion formed on a side wall of the container body, and a frustum-shaped exterior shell.

Reference is made to Figures 1 and 4, for example, wherein the exterior shell 4 can be removably fitted onto the container body 2 by passing a tapered end portion of the container body through a large-diameter opening at one end of the exterior shell 4 and then

through a small-diameter opening at the other end of the shell 4 until the at least one protrusion 8 supports the exterior shell 4 on the container body 2. This is shown in Figure 4.

The frustum-shape exterior shell 4 can also be used to support the container body 2 by removing the exterior shell 4 from the container body 2, inverting the exterior shell and then inserting the tapered end portion of the container body into the small diameter opening of the exterior shell until the at least one protrusion 8 is engaged by an end of the exterior shell 4. This is shown in Figure 1.

Accordingly, a compact arrangement is provided whereby the container body can readily be supported by the exterior shell and placed upon a support surface. This provides two benefits. First, the contents of the container body will not be spilled therefrom, as opposed to a prior art container body which is of a cone shape and merely placed on its side onto a support surface. Second, a user of the container body is not required to hold the container body in order to ensure that the contents thereof are not spilled therefrom, which allows the user to keep both hands free for other activities.

Independent claim 8 is believed to be representative of the invention.

Prior to addressing the rejections issued by the Examiner, it is to be noted that new claim 8 generally corresponds to a combination of former claims 1, 2 and 4. Accordingly, the prior art relied upon by the Examiner will be addressed as it was used to reject claim 4.

The Examiner rejected claims 4-7 under 35 U.S.C. 103(a) as being unpatentable over Zimmer in view Sequin and Schrepper. This rejection is respectfully traversed and the references relied upon by the Examiner are not applicable with regard to the newly added claims for the following reasons.

Claim 8 recites a packaging container that comprises a container body including a side wall and a tapered end portion, at least one protrusion formed on the side wall, and a frustum-shaped exterior shell having a small-diameter opening at one end and a large-diameter opening at an opposite end such that

said frustum-shaped exterior shell is to be removably fitted onto said container body by passing said tapered end portion of said container body through said large-diameter opening and then through said small-diameter opening until said at least one protrusion removably supports said frustum-shaped exterior shell on said container body...and...said frustum-shaped exterior shell is to support said container body by removing said frustum-shaped exterior shell from said container body, inverting said frustum-shaped exterior shell, and inserting said tapered end portion of said container body into said small-diameter opening of said frustum-shaped exterior shell until said at least one protrusion is engaged by said one end of said frustum-shaped exterior shell.

Accordingly, the at least one protrusion formed on the side wall of the container body serves to associate the exterior shell and the container body in a first arrangement in which the container body is in a non-used condition, i.e. when the exterior shell is removably fitted onto the container body. The at least one protrusion also serves to associate the exterior shell and container body in a second arrangement in which contents are to be removed from the container body, i.e. when the exterior shell supports the container body. Thus, the at least one protrusion performs a dual purpose.

None of the prior art relied upon by the Examiner, either taken alone or in combination, teaches a packaging container as recited in claim 8.

In rejecting claim 4, which generally corresponds to new claim 8, the Examiner recognizes that Zimmer does not teach the at least one protrusion as claimed, and thus relied upon a combination of Zimmer and Schrepper to reject claim 4.

Schrepper discloses a holder 36 and a cup 10. The cup 10 includes protrusions 21 and 31 on an outer wall thereof. The protrusions 21 perform their only function when two cups 10 are stacked or positioned one within the other as shown in Figures 3 and 6. Thus, protrusions 21 are not of the dual-purpose kind as recited in claim 8.

The protrusions 31 serve to join the cup 10 to the cup holder 36 by engagement of the protrusions 31 with holding flange 43 as shown in Figures 9 and 10. Thus, the protrusions 31 can be said to associate an exterior shell (cup holder 36) to a container body (cup 10) in a first arrangement, by removably fitting the exterior shell onto the container body. However, the protrusions 31 do not function to associate the exterior shell or cup holder 36 and the container body or cup 10 in a second arrangement as recited in claim 8. Accordingly, protrusions 31 are also not of the dual-purpose kind as recited in claim 8.

Thus, while it arguably may have been obvious to modify Zimmer in view of Schrepper by providing the cup 12 of Schrepper with protrusions on a side wall thereof, these protrusions would not be of the dual-purpose kind as recited in claim 8. Accordingly, for this reason claim 8 is not obvious over a combination of Zimmer and Schrepper.

None of the other references relied upon by the Examiner, namely Sequin and Shumrak, teach or suggest a dual-purpose protrusion as recited in claim 8. Accordingly, claim 8 is not obvious over any combination of the references relied upon by the Examiner. Thus, claims 8-25 are allowable.

Furthermore, with regard to new claim 16 and former claim 5, the following discussion is provided. In rejecting claim 5, the Examiner relied upon Shumrak's teaching of a cup 11

surface on which the cup holder 10 is placed. Specifically, the Examiner concluded that in view of this teaching of Shumrak, one having ordinary skill in the art would have found it obvious to modify Zimmer by designing the cup 12 and base 14 in such a manner so that when the cup is supported by the base, the bottom of the cup will be spaced from a support surface when the base is placed on the support surface.

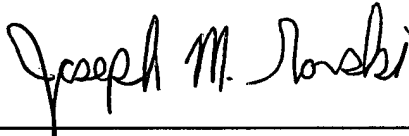
This position taken by the Examiner is respectfully traversed since Zimmer teaches away from any spacing between the bottom of the cup 10 and a support surface when the base 14 supporting the cup and is placed on the support surface. In this regard, the Examiner's attention is respectfully directed to column 3, line 44 through column 4, line 8 of Zimmer. Specifically, this portion of Zimmer makes it clear that the bottom 28 of the cup and the lower end 30 of the base are to remain in a co-planar relationship for maximum stability of the cup 12. In other words, no space is to exist between the bottom of the cup and a support surface on which the base is provided. Thus, because Zimmer teaches away from spacing the bottom of the cup 12 from a support surface, when the cup is held by the base 14, one having ordinary skill in the art would not have been motivated to modify Zimmer in view of Shumrak as proposed by the Examiner. Accordingly, claim 16 is patentable in its own right.

In view of the above amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and an early Notice of Allowance is earnestly solicited.

If after reviewing this Amendment, the Examiner believes that any issues remain which must be resolved before the application can be passed to issue, the Examiner is invited to contact the Applicants' undersigned representative by telephone to resolve such issues.

Respectfully submitted,

Katsuei TANABE et al.

By:  _____

Joseph M. Gorski
Registration No. 46,500
Attorney for Applicants

JMG/adb
Washington, D.C. 20006-1021
Telephone (202) 721-8200
Facsimile (202) 721-8250
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